

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DONNY T. HATCHETT,

Plaintiff,

v.

No. 13-cv-1183 MCA/SMV

**UNITED PARCEL SERVICE, INC.,
and MICHAEL VANCE GILLAM,**

Defendants.

ORDER

THIS MATTER is before the Court on the Order Overruling Objections [Doc. 43], issued on July 18, 2014, by the Honorable M. Christina Armijo, Chief United States District Judge, who is presiding over this case. Pursuant to her Order, I will reset the deadline for completion of the Rule 35 examination as 5:00 p.m. on September 2, 2014.

Also before the Court are Defendants' Motion for Extension of Time to File Rule 26(a)(2) Expert Disclosures [Doc. 34], filed on June 6, 2014, and Defendants' Motion to Amend Scheduling Order [Doc. 42], filed on July 7, 2014. The Court has considered the motions¹ and the record and, being otherwise fully advised in the premises, finds that the Motion for Extension of Time [Doc. 34] should be granted, and the Motion to Amend the Scheduling Order [Doc. 42] should be denied without prejudice.

¹ Plaintiff did not respond to the Motion for Extension of Time [Doc. 34], and the time for doing so has passed. Plaintiff has not responded to the Motion to Amend the Scheduling Order [Doc. 42], but no response is needed.

Background

After meeting with counsel for the parties at a Rule 16 scheduling conference on February 5, 2014, [Doc. 14], the Court issued a Scheduling Order [Doc. 15]. Defendants had until June 5, 2014, to identify in writing any expert witness to be used at trial and to provide expert reports pursuant to Fed. R. Civ. P. 26(a)(2)(B). *Id.* at 1–2. On April 25, 2014, Defendants moved to compel Plaintiff to submit to a physical examination by Dr. Richard Radecki pursuant to Fed. R. Civ. P. 35. [Doc. 19]. I granted the motion to compel the Rule 35 examination on June 12, 2014. [Doc. 36]. However, Plaintiff objected to my order on several grounds. [Doc. 40]. On July 18, 2014, Chief Judge Armijo overruled the objections. [Doc. 43]. Consistent with her order, I will designate September 2, 2014, at 5:00 p.m. as the deadline by which the Rule 35 examination must be completed. *See id.* I will also extend Defendants’ expert-report disclosure deadline to September 17, 2014.

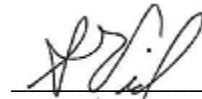
Defendants have further requested that the Scheduling Order [Doc. 15] be amended because “[d]epending on the results of the Rule 35 examination . . . Defendants *may* need additional time to complete discovery, to file discovery motions, and to file appropriate pretrial motions.” [Doc. 42] (emphasis added). The request is premature. If Defendants, or Plaintiff, finds that the scheduling deadlines should be extended, an appropriate motion may be filed at that time.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that, consistent with Chief Judge Armijo’s Order [Doc. 43], the Rule 35 Examination that shall be completed no later **5:00 p.m. on September 2, 2014.**

IT IS FURTHER ORDERED that Defendants' Motion for Extension of Time to File Rule 26(a)(2) Expert Disclosures [Doc. 34] is **GRANTED**. Defendants' deadline to identify in writing any expert witness to be used at trial and to provide expert reports pursuant to Fed. R. Civ. P. 26(a)(2)(B) is EXTENDED to **September 17, 2014**.

IT IS FURTHER ORDERED that Defendants' Motion to Amend Scheduling Order [Doc. 42] is **DENIED without prejudice**. After expert reports have been served, if a party would like to request an extension of the discovery deadline or other related deadlines, such party may file a motion that complies with D.N.M.LR-Civ. 7.1(a).

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge